

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEAN AARON RUSSELL

Defendant.

§
§
§
§
§
§
§
§
§

CRIMINAL ACTION NO. 4:15CR071

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 25, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Lesley Brooks.

On April 23, 2012, Defendant was sentenced by the Honorable Chief United States District Judge Fred Biery of the Western District of Texas after pleading guilty to the offense of Aiding and Abetting Possession with Intent to Distribute Marijuana. Defendant was sentenced to thirty-six (36) months imprisonment followed by a five (5) year time of supervised release. On July 16, 2014, Defendant completed his period of imprisonment and began service of his term of supervised release. On May 1, 2015 a transfer of jurisdiction to the Eastern District of Texas became effective and this case was assigned to the Honorable Judge Marcia A. Crone.

On February 9, 2016, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 2 Sealed]. The Petition asserted that Defendant

violated five (5) conditions of supervision, as follows: (1) The Defendant shall refrain from any unlawful use of a controlled substance; (2) The Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) The Defendant shall report to the Probation Officer in a manner and frequency as directed by the Court or Probation Officer; (4) The Defendant shall perform 200 hours of community service work without pay, at a location approved by the Probation Officer, at a minimum rate of 4 hours per week, to be completed during the first 24 months of supervision.; and (5) The Defendant shall submit to an evaluation for substance abuse or dependency treatment as directed by the Probation Officer, and if deemed necessary by the Probation Officer, the Defendant shall participate in a program approved by a Probation Officer for treatment of narcotic addiction or drug or alcohol dependency which may include testing and examination to determine if the Defendant has reverted to the use of drugs or alcohol.

The Petition alleges that Defendant committed the following acts: (1) and (2) On November 30; December 4; December 10; and December 16, 2015, the Defendant submitted urine specimens that tested positive for cocaine. The Defendant admitted to continuing use of cocaine prior to or following submission of each specimen. On January 5, 2016, the Defendant submitted a urine specimen that tested positive for amphetamine. The Defendant admitted to taking an unknown pill from an individual; (3) The Defendant failed to report in person to the U.S. Probation Office as instructed on January 14, and January 15, 2016. The Defendant failed to submit an internet monthly report as instructed for the months of November and December 2015; (4) The Defendant has failed to start community services as instructed, and the balance remains at 200 hours; and (5) On December 8, December 14, December 28, 2015 and January

11, and January 19, 2016, the Defendant failed to report for random drug testing at Addiction Recovery Center in Lewisville, TX as instructed.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations one (1) and two (2). The Government agrees to dismiss counts three (3), four (4), and five (5) of the Petition. Having considered the Petition and the plea of true to allegations one (1) and two (2), the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of nine (9) months, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons, FCI Beaumont facility, if appropriate.

SIGNED this 25th day of February, 2016.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE